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# Lawsuit gets support to force MIA search

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A lawsuit to force the administration to take stronger action to locate and gain the release of U.S. prisoners of war believed to be living in Southeast Asia has triggered an avalanche of mail, the attorney who filed the lawsuit said yesterday.

While the administration claims it has no proof there are any living POWs in the Vietnam War theater, two retired soldiers have charged that military officials squelched their efforts to demonstrate that such proof exists.

In a class action lawsuit filed in September on behalf of all servicemen who may still be held, Army Maj. Mark A. Smith and Sgt. 1st Class Melvin C. McIntire sought to force any action necessary — "short of war" — to gain their release.

"It was a very appreciable response — in excess of 10,000 pieces of correspondence from families of MIAs and also a tremendous amount of correspondence from just

Americans," Mark Waple of Fayetteville, N.C., said.

"With the exception of two or three pieces of mail, it has been supportive of what we are trying to do," he said in a telephone interview.

The lawsuit, filed in U.S. District Court at Fayetteville, has a long way to go before reaching a courtroom. The Justice Department has asked that the lawsuit be dismissed as a political matter that is not subject to court decision. That issue may not be decided for two or more months, Mr. Waple said.

The soldiers recounted their experience Sunday night on the CBS television show "60 Minutes." When they offered intelligence reports of living POWs, they were told to destroy their report. When they offered proof, they were transferred.

"They were shut down like you close a grocery store," Mr. Waple said.

In their lawsuit, the soldiers claimed officials have had an official or unofficial policy since 1973 of seeking to "discredit or disprove the existence of living Americans in

Southeast Asia" for unknown reasons.

While the administration estimates that about 2,500 American servicemen and civilians are unaccounted for, the officials will not concede that any of the servicemen may be alive in POW camps, the lawsuit said.

Four kin of MIAs in Southeast Asia have joined in the lawsuit and the allegations have been amended to include their complaints, Mr. Waple said.

Anne M. Hart, of Florida, wife of Air Force flier Thomas Hart, charged she obtained anthropological proof that bone fragments purportedly retrieved from her husband's crashed helicopter in Laos were not his remains.

Sylvia Kathryn Fanning, of Oklahoma, wife of Marine Corps Maj. Hugh Michael Fanning, said her husband's purported remains proved to be falsely identified when she had them exhumed and tested anthropologically.

Jerry Dennis, of Florida, said when he exhumed the purported remains of his brother, Mark V. Dennis, whose Navy helicopter reportedly went down in flames in 1966, he found a phony dogtag in the casket. It was shiny, not scorched, and incorrectly listed his religious affiliation.